

FILED

NOT FOR PUBLICATION

FEB 17 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

DEMOND MAURICE MIMMS,

Plaintiff - Appellant,

v.

JAMES PETRUCELLI; et al.,

Defendants - Appellees.

No. 05-15658

D.C. No. CV-05-00144-REC/DLB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Robert E. Coyle, Senior Judge, Presiding

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Demond Maurice Mimms, a California state prisoner, appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action alleging that defendants sentenced him to an unconstitutional prison term. We have jurisdiction

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

pursuant to 28 U.S.C. § 1291. We review de novo, *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order), and we affirm.

The district court properly dismissed Mimms's action because his challenge concerns the legality of his detention, and a judgment in his favor would necessarily imply the invalidity of his continued confinement. *See Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

AFFIRMED